UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,622	11/20/2003	Akira Watanabe	Y2238.0054	6336

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EXAMINER
HOTELLING, HAROLD A

ART UNIT	PAPER NUMBER
2164	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/716,622	WATANABE, AKIRA
	Examiner	**Art Unit**
	HAROLD A. HOTELLING	2164

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 January 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/H. A. H./ Examiner, Art Unit 2164	/Vincent F. Boccio/ Primary Examiner, Art Unit 2169

Continuation of 11. does NOT place the application in condition for allowance because:

The applicant appears to present two arguments that Kalpathy et al. (US 2002/0039365 A1) (assigned to Broadcom) (published on April 4, 2002) (hereafter "Kalpathy") does not teach the applicant's claimed (effective filing date: November 20, 2002) "SEARCHING THE FIRST SEARCH RESULTS OF SAID FIRST SEARCH PROCESSING MEANS WITH A SECOND SEARCH METHOD THAT IS DIFFERENT FROM SAID FIRST SEARCH METHOD."

The applicant argues firstly on pages 6 - 7: "while it is the Cache that is searched in Search Stage Zero, it is the 8K Table (not the results of Search Stage Zero) that is searched in Search Stage One. The two search steps disclosed in Kalpathy are clearly set forth in Fig. 5. In that figure, step 5 10 states 'Search Cache' while step 520 states 'Search Table Based on Search Results of Search in Cache.' Nothing could be clearer. The second search in Kalpathy uses the results of the first search (i.e., the search conducted at step 5 1 O), but utilizes those results to search the Table. Not only is there no teaching or suggestion that the results of the search conducted at step 5 10 are what is being searched in step 520, but Fig. 5 clearly and unambiguously shows that it is not the search results of step 510 that are being searched in step 520; it is the Table that is being searched."
Figure 5 in Kalpathy was not a basis for rejecting the applicant's claims.

The applicant argues secondly on page 7:
"In spite of the clear and explicit teaching in Kalpathy that the second stage searches the 8K table, and not the results of the search of his first stage, the Response to Arguments appeared to be arguing that Kalpathy second stage must in fact search the search results of the first search. In particular, the position is taken that because the second stage search in Kalpathy is based on the first stage search results, it must at some point "search" those search results.
"In the first place, there is no teaching in Kalpathy that any searching is done, in a second stage search, on the search results of the first stage. The Examiner's surmise that basing the second search on the results of the first search means that a search must be done on those results is simply unsupported by Kalpathy. The only search taught by Kalpathy done by Search Stage One is a search on the larger 8K table (in paragraph [0045] another example uses a 16K table). And of course, at least because there is no such search being done, there is no teaching or remote suggestion that a different method of search is used on the search results from that used in the first search, as in claim 1.
"Therefore, Kalpathy fails to disclose that the results of the first search are then searched again by a different search method, as required by the independent claims."
The examiner respectfully disagrees with the applicant's belief that "there is no teaching in Kalpathy that any searching is done, in a second stage search, on the search results of the first stage."
The Kalpathy "Search Stage One" does access the 8K Table "based on" the results of the "Search Stage Zero" search of the Cache. Moreover, Kalpathy (paragraph [0059], last four lines) explains that "the invention is not limited to which entries in the table the Cache is made up of. For example, the Cache could be made up of entry 5, 256, 300 etc. until all entries in the Cache are filled."
In order to base the "Search Stage One" on the "Search Stage Zero" search results, the Kalpathy invention must LOOK OVER the "Search Stage Zero" search results TO FIND the entry on which to base "Search Stage One."

The definition of "search" archived on April 12, 2001 at:
http://web.archive.org/web/20010412051624/http://www.bartleby.com/61/32/S0193200.html
is:
1.   To make a thorough examination of; LOOK OVER carefully in order TO FIND something; explore.

Because the Kalpathy "Search Stage One" is "based on" the "Search Stage Zero" search results, the Kalpathy "Search Stage One" must SEARCH through the "Search Stage Zero" search results before basing any subsequent steps on the "Search Stage Zero" search results.
Therefore, Kalpathy does "disclose that the results of the first search are then SEARCHed again by a different search method . . ."